

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Marian Majkrzak and Joanna Majkrzak,

Plaintiff(s),

-against-

Long Island Auto Mall Corp. a/k/a
Island Auto Mall and Capital One, N.A.
d/b/a Capital One Auto Finance

Defendant(s).

Case No. 2:21-cv-00386

**DEFENDANT ISLAND
AUTOMALL, LLC'S
ANSWER**

Defendant Island Automall, LLC, improperly sued herein as “Long Island Auto Mall Corp., d/b/a Island Auto Mall” (“Island” or “Defendant”), by their attorneys LaBonte Law Group, PLLC, answers the Complaint of Plaintiff’s Marian Majkrzak and Joanna Majkrzak, as follows:

NATURE OF THIS ACTION

1. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 1.
2. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 2.
3. Defendant denies the allegations contained in Paragraph 3.
4. Paragraph 4 does not contain any allegations that require a response. To the extent that Paragraph 5 requires a response, Defendant denies the allegations.

JURISDICTION AND VENUE

5. Paragraph 5 is a statement of law that does not require a response. To the extent that Paragraph 5 requires a response, Defendant denies the allegations.

6. Paragraph 6 is a statement of law that does not require a response. To the extent that Paragraph 6 requires a response, Defendant denies the allegations.

7. Paragraph 7 is a statement of law that does not require a response. To the extent that Paragraph 7 requires a response, Defendant denies the allegations.

8. Paragraph 8 is a statement of law that does not require a response. To the extent that Paragraph 8 requires a response, Defendant denies the allegations.

PARTIES

9. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 9.

10. Defendant denies the allegations contained in Paragraph 10, except admits that Island Automall, LLC is a limited liability corporation organized under the laws of the State of New York with a place of business at 185 E Sunrise Highway, Freeport, NY.

11. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 11.

12. Defendant denies the allegations contained in Paragraph 12, except admits that Capital One is an assignee, and respectfully refers all questions of law to the Court.

FACTS

13. Defendant denies the allegations contained in Paragraph 13, except admits that Plaintiffs agreed to purchase the Vehicle.

14. Defendant denies the allegations contained in Paragraph 14, and respectfully refers the Court to the documents for their terms and meaning.

15. Defendant denies the allegations contained in Paragraph 15.

16. Defendant denies the allegations contained in Paragraph 16.

17. Defendant denies the allegations contained in Paragraph 17, except admits that Plaintiffs agreed and signed the Retail Instalment Contract.

18. Defendant denies the allegations contained in Paragraph 18.

19. Defendant denies the allegations contained in Paragraph 19.

20. Defendant denies the allegations contained in Paragraph 20, except admits that Plaintiffs took possession of the Vehicle.

21. Defendant denies the allegations contained in Paragraph 21.

22. Defendant denies the allegations contained in Paragraph 22.

FIRST CAUSE OF ACTION
VIOLATIONS OF TILA

23. Defendant repeats and realleges each of the above allegations.

24. Paragraph 24 is a statement of law that does not require a response. To the extent that Paragraph 24 requires a response, Defendant denies the allegations contained in Paragraph 24 and respectfully refer all questions of law to the Court.

25. Paragraph 25 is a statement of law that does not require a response. To the extent that Paragraph 25 requires a response, Defendant denies the allegations contained in Paragraph 25 and respectfully refers all questions of law to the Court.

26. Paragraph 26 is a statement of law that does not require a response. To the extent that Paragraph 26 requires a response, Defendant denies the allegations contained in Paragraph 26 and respectfully refers all questions of law to the Court.

27. Paragraph 27 is a statement of law that does not require a response. To the extent that Paragraph 27 requires a response, Defendant denies the allegations contained in Paragraph 27 and respectfully refers all questions of law to the Court, and further refers the Court to the document for its terms and meaning.

28. Paragraph 28 is a statement of law that does not require a response. To the extent that Paragraph 28 requires a response, Defendant denies the allegations contained in Paragraph 28, except admits that the RISC is an agreement, and respectfully refers all questions of law to the Court, and further refers the Court to the document for its terms and meaning.

29. Defendant denies the allegations contained in Paragraph 29 and respectfully refers the Court to the document for its terms and meaning.

30. Defendant denies the allegations contained in Paragraph 30.

31. Defendant denies the allegations contained in Paragraph 31, and respectfully refers all questions of law to the Court.

32. Defendant denies the allegations contained in Paragraph 32, and respectfully refers all questions of law to the Court.

33. Defendant denies the allegations contained in Paragraph 33, and respectfully refers all questions of law to the Court.

34. Defendant denies the allegations contained in Paragraph 34, and respectfully refers all questions of law to the Court.

35. Defendant denies the allegations contained in Paragraph 35.

36. Defendant denies the allegations contained in Paragraph 36.

37. Defendant denies the allegations contained in Paragraph 37.

38. Defendant denies the allegations contained in Paragraph 38, and respectfully refers all questions of law to the Court.

39. Paragraph 39 is a statement of law that does not require a response, and is further directed at co-defendant Capital One.

SECOND CAUSE OF ACTION
VIOLATIONS OF NEW YORK MVRISA

40. Defendant repeats and realleges each of the above allegations.

41. Paragraph 41 is a statement of law that does not require a response. To the extent that Paragraph 41 requires a response, Defendant denies the allegation and respectfully refers all questions of law to the Court.

42. Paragraph 42 is a statement of law that does not require a response. To the extent that Paragraph 42 requires a response, Defendant denies the allegation and respectfully refers all questions of law to the Court.

43. Paragraph 43 is a statement of law that does not require a response. To the extent that Paragraph 43 requires a response, Defendant denies the allegation and respectfully refers all questions of law to the Court.

44. Defendant denies the allegations contained in Paragraph 44.

45. Defendant denies the allegations contained in Paragraph 45.

46. Defendant denies the allegations contained in Paragraph 46.

47. Defendant denies the allegations contained in Paragraph 47.

48. Defendant denies the allegations contained in Paragraph 48, and respectfully refers all questions of law to the Court.

**THIRD CAUSE OF ACTION
DECEPTIVE TRADE PRACTICES**

49. Defendant repeats and realleges each of the above allegations.
50. Defendant denies the allegations contained in Paragraph 50, and respectfully refers all questions of law to the Court.
51. Defendant denies the allegations contained in Paragraph 51, and respectfully refers all questions of law to the Court.
52. Defendant denies the allegations contained in Paragraph 52, and respectfully refers all questions of law to the Court.
53. Defendant denies the allegations contained in Paragraph 53.
54. Defendant denies the allegations contained in Paragraph 54, and respectfully refers all questions of law to the Court.
55. Defendant denies the allegations contained in Paragraph 55, and respectfully refers all questions of law to the Court.
56. Defendant denies the allegations contained in Paragraph 56, and respectfully refers all questions of law to the Court.
57. Denies the allegations contained in Paragraph 57.
58. Defendant denies the allegations contained in Paragraph 58, and respectfully refers all questions of law to the Court.

**FOURTH CAUSE OF ACTION
FALSE ADVERTISING**

59. Defendant repeats and realleges each of the above allegations.
60. Paragraph 60 is a statement of law that does not require a response.

61. Defendant denies the allegations contained in Paragraph 61, and respectfully refers all questions of law to the Court.

62. Defendant denies the allegations contained in Paragraph 62, and respectfully refers all questions of law to the Court.

63. Defendant denies the allegations contained in Paragraph 63.

64. Defendant denies the allegations contained in Paragraph 64, and respectfully refers all questions of law to the Court.

65. Defendant denies the allegations contained in Paragraph 65, and respectfully refers all questions of law to the Court.

FIFTH CAUSE OF ACTION
COMMON LAW FRAUD

66. Defendant repeats and realleges each of the above allegations.

67. Defendant denies the allegations contained in Paragraph 67.

68. Defendant denies the allegations contained in Paragraph 68.

69. Defendant denies the allegations contained in Paragraph 69.

70. Defendant denies the allegations contained in Paragraph 70.

71. Defendant denies the allegations contained in Paragraph 71, and respectfully refers all questions of law to the Court.

72. Defendant denies the allegations contained in Paragraph 72.

73. Defendant denies that Plaintiffs are entitled to the demands made in the

Wherefore clause.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

74. Plaintiffs' claims are barred for failure to state a claim or cause of action upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

75. Plaintiffs' claims are barred by documentary evidence, including without limitation the contract between the parties.

THIRD AFFIRMATIVE DEFENSE

76. Plaintiffs' claims are preempted by the Federal Arbitration Act and federal law, in that Plaintiffs' claims are subject to arbitration pursuant to the Vehicle Purchase Agreement.

FOURTH AFFIRMATIVE DEFENSE

77. Plaintiffs' claims for willful violations are barred, because Defendants acted in good faith.

FIFTH AFFIRMATIVE DEFENSE

78. Upon information and belief, one or more of the Plaintiffs lacks standing to sue.

SIXTH AFFIRMATIVE DEFENSE

79. Plaintiffs' claims are barred for lack of personal jurisdiction, in that Plaintiffs improperly named and served the Defendant, including because Long Island Auto Mall Corp. is the incorrect entity.

SEVENTH AFFIRMATIVE DEFENSES.

80. Defendants reserves the right to assert additional affirmative defenses that may become available upon further investigation and discovery, including the right to amend its Answer to assert any such defenses.

WHEREFORE, Defendants respectfully request that the Court:

(a) Dismiss Plaintiffs' Complaint, and all causes of action contained therein, with prejudice and without cost or liability to Defendants;

(b) for such other relief as the Court deems just, proper and equitable.

Dated: Jericho, New York
June 25, 2021

LABONTE LAW GROUP, PLLC

By: _____/s/_____
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*Attorney for Defendant
Island Automall, LLC
(improperly named herein)*